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[HF 309](#) – Tax-Exempt Organizations, Public Disclosure of Information (LSB1731HV)  
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Fiscal Note Version – New

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### **Description**

[HF 309](#) prohibits a public agency from seeking the disclosure of, or publishing, personal information from a tax-exempt organization under Section 501(c) of the federal Internal Revenue Code that would reveal the identity of a member, supporter, volunteer, or donor of a tax-exempt organization, or from requesting from a contractor a list of tax-exempt organizations that the contractor has supported. The Bill also requires any court-ordered inspection of corporate records containing personal information to be made under seal from public disclosure and prohibits corporate disclosure from being used to obtain personal information. House File 309 makes the following exceptions:

- Lawful warrants or discovery requests in which the requestor shows a compelling need for the information and obtains a protective order barring unnecessary disclosure.
- Agreements between an organization and a public agency.
- Information that must be reported to the Secretary of State pursuant to Iowa Code section 504.1613 or the Attorney General or State Auditor pursuant to Iowa Code chapter 504, chapter 537, or section 714.16.
- Personal information disclosed in public judicial proceedings.

The Bill does not affect any provision of Code chapter [68A](#), which relates to campaign finance.

A person who violates the Bill commits a civil penalty, and a person who knowingly violates the Bill commits a serious misdemeanor.

### **Background**

A civil penalty includes no less than \$2,500 per violation and no more than \$7,000 per intentional violation. A serious misdemeanor is punishable by imprisonment for not more than 90 days or a fine of not more than \$1,000 or by both.

As established in Iowa Code chapter [9](#), the Secretary of State's Office is responsible for reviewing, processing, approving, and filing, on a limited basis, statutory documents relating to domestic and foreign business entities operating within Iowa, including those that have elected to be a Section 501(c) organization under federal law. Nonprofit organizations are formed by drafting articles of incorporation and filing them with the Secretary of State pursuant to Iowa Code chapter 504.

### **Assumptions**

- The following will not change over the projection period: charge, conviction, and sentencing patterns and trends; prisoner length of stay (LOS); revocation rates; plea bargaining; and other criminal justice system policies and practices.
- A lag effect of six months is assumed from the effective date of this Bill to the date of first entry of affected offenders into the correctional system.
- Marginal costs for county jails cannot be estimated due to a lack of data. For purposes of this analysis, the marginal cost for county jails is assumed to be \$50 per day.

- There are approximately 31,000 active nonprofit organizations filed with the Secretary of State.
- The Secretary of State does not have knowledge on whether an organization formed under Iowa Code chapter 504 has elected to be a 501(c) organization under federal law.
- Excluding biennial reports, the Secretary of State's Office would need to review thousands of documents submitted to the Office to ensure compliance with HF 309.
- At a minimum, the Secretary of State would need to hire 1.0 full-time equivalent (FTE) position to review and remove personal information from documents submitted to the Office.

**Correctional Impact**

The correctional impact of HF 309 cannot be determined. The Bill establishes a new criminal offense, and no historical data exists to make a reliable estimate.

**Table 1** below shows estimates for sentencing to State prison, parole, probation, or Community-Based Corrections (CBC) residential facilities; LOS under those supervisions; and supervision marginal costs per day for all convictions of serious misdemeanors. Refer to the Legislative Services Agency (LSA) memo addressed to the General Assembly, [Cost Estimates Used for Correctional Impact Statements](#), dated January 22, 2021, for information related to the correctional system.

**Table 1 — Sentencing Estimates and LOS**

Conviction Offense Class	Percent to Prison	Avg Length of Stay Prison (months)	FY 20 Marginal Cost/Day Prison	Percent Ordered to Probation	Avg LOS on Probation	Avg Cost Per Day on Probation	Percent Sentenced to CBC Residential Facility	FY 20 Marginal Cost CBC Per Day	Percent Ordered to County Jail	Marginal Cost Per Day	Avg LOS on Parole	FY 20 Average Cost Per Day Parole
Serious Misdemeanor	2.0%	5.0	\$20.33	56.0%	13.4	\$5.38	1.0%	\$14.78	69.0%	\$50.00	2.4	\$5.38

**Minority Impact**

House File 309 establishes a new criminal offense, and a minority impact cannot be estimated due to a lack of data. Refer to the LSA memo addressed to the General Assembly, [Minority Impact Statement](#), dated January 27, 2021, for information related to minorities in the criminal justice system.

**Fiscal Impact**

The fiscal impact of House File 309 to the correctional system cannot be determined, as the Bill establishes a new criminal offense, and the resulting cost to the Justice System cannot be determined. The Department of Corrections (DOC) estimates that public agencies are likely to comply with the Bill. **Table 2** shows estimates for the average State cost for one simple misdemeanor or serious misdemeanor conviction. The cost estimates include operating costs incurred by the Judicial Branch, the State Public Defender, and the DOC for one conviction.

**Table 2 — Average State Cost Per Offense Class Type**

Offense Class	Total Minimum Cost	Total Maximum Cost
Simple Misdemeanor	\$40	\$350
Serious Misdemeanor	\$410	\$7,500

The new offense established by House File 309 may also result in an increase in civil penalty revenue, but the impact is unknown.

Due to the Secretary of State Office’s need to review all filings submitted to the Office and remove any qualifying personal information from its records, the Secretary of State’s Office estimates that it would need to hire at least 1.0, and potentially 2.0, Clerk Specialist FTE positions for two years. Costs associated with filling either one or both of those positions are provided in **Table 3** and include the full salary and benefits.

**Table 3 — Estimated Impact of HF 309 to the Secretary of State**

	<b>Clerk Specialist (1.0 FTE)</b>	<b>Clerk Specialist (2.0 FTEs)</b>
FY 2022	\$ 53,000	\$ 106,000
FY 2023	53,000	106,000

**Sources**

Legislative Services Agency  
 Criminal and Juvenile Justice Planning Division, Department of Human Rights  
 Department of Corrections  
 Secretary of State

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 /s/ Holly M. Lyons

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The fiscal note for this Bill was prepared pursuant to [Joint Rule 17](#) and the Iowa Code. Data used in developing this fiscal note is available from the Fiscal Services Division of the Legislative Services Agency upon request.

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